

**IN THE COURT OF APPEALS  
FIRST APPELLATE DISTRICT OF OHIO  
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-090675
	:	TRIAL NO. B-0800743
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
KELLY LAMONT DORITY-TRAPP,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.<sup>1</sup>

Defendant-appellant Kelly Lamont Dority-Trapp was convicted of aggravated murder (with specifications),<sup>2</sup> attempted murder (with specifications),<sup>3</sup> and two counts of having a weapon while under a disability.<sup>4</sup> The trial court sentenced Dority-Trapp to a total of 41 years to life in prison.

Dority-Trapp appealed his conviction and sentence. This court concluded that the trial court had erred in sentencing him on two gun specifications because the specifications arose out of the “same act or transaction.”<sup>5</sup> On remand, the trial court followed this court’s mandate, sentenced Dority-Trapp for only one gun specification, and incarcerated him for a total of 38 years to life. Dority-Trapp again appeals.

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<sup>1</sup> See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

<sup>2</sup> R.C. 2903.01(A).

<sup>3</sup> R.C. 2923.02(A).

<sup>4</sup> R.C. 2923.13(A)(2).

<sup>5</sup> *State v. Dority-Trapp*, 1st Dist. No. C-081114, 2009-Ohio-4058, at ¶¶21-22.

In three assignments of error, Dority-Trapp argues (1) that he was given an unlawful sentence under *State v. Foster*;<sup>6</sup> (2) that his sentence violated his due-process rights and constituted cruel and unusual punishment; and (3) that the trial court abused its discretion when it sentenced him to consecutive, maximum terms of incarceration. He made the first two arguments in his first appeal, and we rejected them both.<sup>7</sup> We also concluded that “his sentences were within the legal range, and that the trial court did not abuse its discretion.”<sup>8</sup>

The only difference between this appeal and his first is that his sentence is now three years shorter than it was when we considered his arguments the first time. Having reviewed the record and the arguments of counsel, we see no reason to reach a different result.

We overrule Dority-Trapp’s three assignments of error and affirm the trial court’s judgment.

A certified copy of this judgment entry is the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

**SUNDERMANN, P.J., HENDON and DINKELACKER, JJ.**

*To the Clerk:*

Enter upon the Journal of the Court on June 23, 2010

per order of the Court \_\_\_\_\_.  
Presiding Judge

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<sup>6</sup> 109 Ohio St.3d 1, 2006-Ohio-856, 845 N.E.2d 470.

<sup>7</sup> *Dority-Trapp*, supra, at ¶¶25-27.

<sup>8</sup> *Id.* at ¶25.